

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

**ORDER OF THE COURT ON RECOMMENDATION REGARDING
REQUEST TO PROCEED IN FORMA PAUPERIS ON APPEAL**

Considering the record in this case and the recommendation of the magistrate judge, the court hereby finds and orders:

() The request for leave to proceed *in forma pauperis* on appeal is granted.

(X) The application for leave to proceed *in forma pauperis* on appeal is **DENIED** because the court certifies pursuant to 28 U.S.C. § 1915(a)(3) and FED. R. APP. P. 24(a)(3) that the appeal is not taken in good faith. In support of this certification, the court incorporates by reference the memorandum opinion and order denying plaintiff's motion for relief from the court's September 16, 2014 order, filed in this case on November 25,

2014 (docket entry 92). Based on that order, this court finds that the appeal presents no legal points of arguable merit and is therefore frivolous.

(X) Although this court has certified that the appeal is not taken in good faith under 28 U.S. C. § 1915(a)(3) and FED. R. APP. P. 24(a)(3), the plaintiff may challenge this finding pursuant to *Baugh v. Taylor*, 117 F.3d 197 (5th Cir. 1997), by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within 30 days of this order.

The clerk's office is **DIRECTED** to forward the application for leave to proceed *in forma pauperis* (docket entry 94) to the Fifth Circuit.

SO ORDERED.

January 6, 2015.


A. JOE FISH
Senior United States District Judge